

THE PLAUSIBLE FRAUD:

HIDDEN FUND DIVERSION



Q HOW DOES HIDDEN FUND DIVERSION BECOME A TRAP?

- This method occurs when investment funds or portfolio management companies secretly deviate from their publicly declared strategies and channel assets into opaque, high-risk, or illegal areas without investor knowledge. Such misconduct is often concealed through complex derivatives, offshore securities, or illiquid bonds.
- Through this method, high-risk transactions are conducted without investors' awareness, resulting in significant financial losses and creating an environment for the laundering of illicit proceeds. The use of over-the-counter ("OTC") transactions and multi-layered structures further obscures the real value and nature of the assets.
- For example, a fund marketed as a "green energy investment" may in reality be diverted into highly volatile cryptocurrencies or assets tied to illicit sources. A recent case revealed that a Europe-based fund, despite claiming to invest in renewable energy projects, engaged in high-risk crypto transactions by employing hidden fund diversion tactics.

LEGAL ASSESSMENT



- **Articles 157–158 of the Turkish Criminal Code (the "TCC"):** Deceiving investors through such conduct may constitute aggravated fraud.
- **TCC Article 282:** Reallocating proceeds obtained via diversion into other areas may constitute the laundering of criminal assets.
- **TCC Articles 204–207:** Fabricated reports or misrepresentations provided to investors may qualify as forgery of official and private documents.
- **Article 107 of the Capital Markets Law (the "CML"):** Manipulative transactions or misleading conduct concerning the price, supply, or demand of capital market instruments may be punishable by imprisonment and judicial fines.
- **Article 109 of the CML:** Offering capital market instruments to the public without publishing an approved prospectus or operating in capital markets without authorization may also lead to criminal sanctions.

WHICH PRECAUTIONS SHOULD BE TAKEN?



- Fund and portfolio audits should be conducted independently, with investment decisions regularly reported and reviewed.
- Financial ethics and compliance training programs should be implemented to raise awareness of misconduct risks. Algorithmic monitoring systems must be installed to track daily reports and detect threshold breaches.
- Necessary mechanisms should be established to ensure regular and transparent flow of information to investors, and deviations should be detected early. Otherwise, fund managers may conceal underlying assets using complex offshore layering. In some cases, managers may even engage in insider trading using privileged information.

VARDAR ŞANLI IN ACTION:

- We conduct legal assessments of fund oversight mechanisms to detect and prevent hidden fund diversion, ensuring regulatory compliance in investment decision-making.
- We offer tailored ethics and compliance training to fund managers and portfolio teams to build institutional awareness and accountability.
- Through our global partnerships, we trace diverted assets across jurisdictions and develop strategic recovery actions.

